



# Report: Teaching Council changes: transitional arrangements for ERB

To:	Hon Erica Stanford, Minister of Education		
Date:	18/08/2025	Deadline:	25/08/2025
Security Level:	In-Confidence	Priority:	High
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Drafter:	Zac Shilston	METIS No:	1352349

## Why are we sending this to you?

- You have agreed to change the structure and functions of the Teaching Council (the Council). Transitional provisions in the Education and Training (Systems Reform 9(2)(f)) Amendment Bill (ERB) need to be designed to manage the changes to the membership of the Council without disrupting its effective functioning.

## What action do we need, by when?

- We are seeking your approval of the proposed transitional arrangements for the Council following your substantive changes to Council membership under ERB. We will then work with Parliamentary Council Office (PCO) to draft them into the upcoming legislation.
- Please return the signed paper by 25 August.

## Key facts, issues and questions

- This paper seeks your approval to the transitional provisions for the Teaching Council membership following ERB. This will ensure that the Council can continue to carry out its functions while its membership changes are implemented.
- We recommend approving a conditional appointment process for new Ministerially-appointed members, so that they can be appointed when ERB Receives Royal Assent.

## Alignment with Government priorities

1. This report aligns with Government Priority 4: Building the future teaching workforce, including leadership development pathways

## Background

2. You received Cabinet approval to make changes to the Teaching Council's functions, structure and membership through the Education and Training Amendment (System Reform 9(2)(f)) Bill (ERE<sup>(1)</sup>) [SOU-25-0081 refers].
3. These changes will amend section 475(1) of the Education and Training Act 2020 (the Act), which regulates the composition of the Council. The changes will reconstitute the Council's membership as follows:
  - 3.1. Set the size of the Teaching Council to be between a minimum of seven and a maximum of nine members (as compared to the current membership of 13).
  - 3.2. Change the composition of the Teaching Council to include three elected members, with the remaining members to be Ministerially appointed. The Chair and Deputy Chair of the Council will continue to be Ministerially appointed. The elected representatives will be one of each from the:
    - a. early childhood education (ECE) sector;
    - b. primary education sector; and
    - c. secondary education sector.
  - 3.3. Provide for the Minister to determine the final membership size of the Council through the number of appointed members they select.
4. Transitional arrangements are needed to ensure the smooth and effective transition from the current Council structure and governance to the new Council arrangements. Transitional arrangements will minimise disruption and allow for the Council to continue operating effectively, while providing for the necessary processes for change.
5. Cabinet authorised you to make decisions on any issues of detail that may arise during the drafting process, subject to the decisions being consistent with the policy decisions received [SOU-25-0081 refers]. We seek your decisions on transitional arrangements on this basis.
6. We set out a preferred process that will enable appointed members to take their positions on Council shortly following Royal Assent of ERE<sup>(1)</sup>. The Council will still need to carry out an election for new elected members following Royal Assent.

## ERE<sup>(1)</sup> changes will require a full transition of Council members

7. Because you are making substantial changes to the membership of the Council, your proposed ERE<sup>(1)</sup> changes will require a full transition process for both elected and ministerially appointed members.

### *Elected members*

8. There will need to be a new election for elected members following the passage of ERE<sup>(1)</sup>. Prior to ERE<sup>(1)</sup> the Council will have six elected members, comprising one teacher and one leadership representative from each of the ECE, primary and secondary sectors. The

ERE [REDACTED] changes will reduce this to three elected members, with one representative for each sector.

- Following new elections, elected positions would be filled by the new sector representatives, who may be one of the current representatives if they choose to stand for re-election, or a new person.

*Ministerially appointed members*

- Prior to ERE [REDACTED] the Council will have seven ministerially appointed members. Following ERE [REDACTED] you will have the discretion to appoint between four and six members.
- We recommend that you carry out a new appointments process for all ministerial appointed members, including the Chair and Deputy Chair.
- We recommend appointing a new membership, as you have no ability to remove members for anything other than 'just cause', unless they choose to resign. Reconstitution of the Council as proposed in ERE [REDACTED] would not meet the statutory grounds for just cause for removing an individual member. Accordingly, we recommend that transitional provisions specifically provide for you to appoint new membership following passage of the Bill. The functions of the Council are changing, and it would be timely to reconsider the mix of skills and experience that you want on the Council given the reduction in Council members and the lower number of elected members.

## **Transitional provisions should allow for an expedited election and appointment process**

*Transitional provisions*

- Under Schedule 19 Clause 4 of the Act, each member of the Teaching Council continues in office until a successor is appointed or elected (unless the member otherwise ceases to hold office through resignation, disqualification or removal). This provides for continuity and enables the Council to carry out its functions while new members are elected and appointed.
- There is a risk to having a transitional period between the commencement of the Bill and the reconstitution of the Council. 9(2)(g)(i)
- However, it is not possible to transition immediately from the outgoing Council to a new incoming Council. It would not be legal for the Council to initiate an election for new elected members prior to the passage of the Bill.
- We recommend that transitional provisions set out that:
  - changes to the Teaching Council membership and functions commence the day after Royal Assent of the Bill. Transitional provisions manage the membership of the Council under section 475 of the Act until the new Council is constituted following election of new elected members.
  - ministerially appointed members of the Teaching Council remain in place until new Ministerial appointments are made. Elected members remain in place until new elected members take office.
  - the passage of the Bill requires the Teaching Council to initiate an election process for the reduced number of elected positions on the Council, to be conducted in accordance with the Teaching Council of Aotearoa New Zealand Election Rules 2018.

16.4. following the passage of the Bill, the Minister will appoint members in accordance with section 476 of the Act.

16.5. section 475(5) of the Act will not apply to the reconstitution of the Teaching Council, and elected members may take office following the confirmation of election results.<sup>1</sup> We recommend that section 475(5) is not required in this case, given the extraordinary nature of the Council's reconstitution. This will enable elected members to take their places on the Council more quickly.

#### *Timeframes*

17. The ERE~~1~~ expected schedule is:

Bill introduced	11 November 2025
1 <sup>st</sup> Reading	From 18/ November 2025
Select Committee	18 November 2025 - 12 May 2026
2 <sup>nd</sup> Reading	From 19 May 2026
Committee of the whole House	From 26 May 2026
3 <sup>rd</sup> Reading	From 11 June 2026
Royal Assent	15 June 2026

#### *Appointed members*

18. A normal appointment process for appointed members of the Council after Royal Assent (approximately 12 weeks being a standard minimum)<sup>2</sup> would cause timeframes for appointment to run into the pre-election period, where the practice is usually for the Government to restrain from or make special processes for making significant appointments in the 3 months before an election.<sup>3</sup>

19. We have received advice from the Appointments and Honours Committee Secretary that it is possible to undertake a provisional appointment process once ERE~~1~~ is introduced to the House, with appointments conditional on the passage of the Bill. This approach would ensure that you are able to make appointments to the Council immediately following the Bill's passage without needing authorisation to do so during the pre-election period. This

<sup>1</sup> Section 475(5) of the Act requires that elections must be held at least 4 months before members take office, and that the Teaching Council must provide confirmation of the election results to the Minister at least 3 months before members take office. This is to ensure that appointment of members is done in awareness of the skills and experience of elected members.

<sup>2</sup> This allows for:

- 3 weeks for advertising in gazette and other places,
- 3 Weeks to process and develop appointment longlist
- 3 Weeks for Minister to shortlist and approve appointments
- 1 week to generate APH paper and undertake probity checks
- 12 working days for ministerial consultation and lodging, APH and Cabinet approval

<sup>3</sup> Cabinet Manual 2023, 6.09-6.10

would be our recommended option. Should you agree, we would undertake an appointments process in early 2026 following the referral of ERE<sup>1</sup> to Select Committee. Appointments could then be made shortly following Royal Assent. We include indicative timeframes for the appointment process as **Annex 1**.

20. If you do not agree with carrying out an early appointments process, we could seek advice on the extent to which the Council appointments would meet the threshold for being considered significant. If they were found to be significant, we could seek Cabinet approval to appoint during the pre-election period. Alternatively, we could defer appointment and transition for appointed members until after the general election.

#### *Elected members*

21. Following Royal Assent of ERE<sup>1</sup>, the Teaching Council would begin the process to carry out a new election for elected members.
22. We recommend that elected members are officially recognised and take office following confirmation of their election results. At that point, the current elected members would cease to be members of the Council.
23. Notification of an election must be sent to electors at least 80 days prior to the election.<sup>4</sup> The period from issuing notice of election to the publication of results was 4 months for the most recent elections, however election process and timing is entirely governed at the Council's discretion.<sup>5</sup> Given the ERE<sup>1</sup> timeframes, this is likely to have overlap with the General Election campaign period. We will encourage the Council to consider what measures will support sector engagement with the election.
24. We would recommend engaging with the Council proactively while ERE<sup>1</sup> is in Select Committee. While the election may not formally be initiated until the Bill has received Royal Assent, we could work with the Council to ensure they have prepared to undertake the election quickly following Royal Assent.

## Risks

25. We have previously briefed you on the risks associated with Teaching Council structure and governance changes<sup>9(2)(g)(i)</sup>

26. 9(2)(g)(i)

Schedule 19 of the Act sets out that the powers of the Teaching Council are not affected by any vacancy of its membership, and that any question may be settled by a majority of those present at a Council meeting.<sup>6</sup>

27. Communication and engagement with the Council will be critical in managing the risk of disruption.

<sup>4</sup> Teaching Council of Aotearoa New Zealand Election Rules 2018. Section 15(2)(b)

<sup>5</sup> Education and Training Act 2020. Section 486 (1)(a)

<sup>6</sup> Education and Training Act 2020. Schedule 19 8)

## Financial Implications

28. Running Board elections is a process prescribed and required by the Education and Training Act 2020 and Teaching Council Election Rules 2018. The estimated cost is approximately \$80,000 ex GST. Election costs will fall to the Council, however the Council is funded through teacher fees, which you have agreed to cover through Budget 25. It is likely that the Council will realise some savings from the reduction in its functions following passage of the Bill (removal of its standard setting function) which they could use to offset the cost of the election. Next Steps
29. Following your decisions, we will instruct Parliamentary Counsel Office (PCO) with the approved transitional arrangements, and these will be drafted into ERB<sub>1</sub>.
30. You have agreed for the Ministry to communicate with the Teaching Council regarding these proposals prior to the introduction of ERB<sub>1</sub>. We will brief you on preparation for engagement with the Council and seek your views on wider public communications regarding these proposals prior to introduction.
31. We will advise you further regarding preparation for appointment and election processes of new members following introduction.

## Annexes

The following are annexed to this paper:

Annex 1: Timeline for Ministerial appointment process and indicative election timeline for new Teaching Council members.

## Recommended Actions

The Ministry of Education recommends you:

a. agree that the following commencement and transitional arrangements are drafted as part of the proposals to amend Teaching Council structure and governance through the Education and Training (System Reform 9(2)(f) ) Amendment Bill:

- i. changes to the Teaching Council's membership and functions commence the day after Royal Assent of the Bill. Transitional provisions provide for the Minister to undertake a new appointment process for members and for the Council to hold new elections.
- ii. the outgoing Teaching Council remains in office until the appointment of a new Council. Ministerially-appointed members of the Council remain in place until new Ministerial appointments are made. Elected members remain in place until new elected members take office.
- iii. the passage of the Bill requires the Teaching Council to initiate an election process for new elected members of the Council, to be conducted in accordance with the Teaching Council of Aotearoa New Zealand Election Rules 2018.
- iv. following the passage of the Bill, the Minister will appoint members in accordance with section 476 of the Act.
- v. despite section 475(5) of the Act, elected members may take office following official confirmation of results.

Agree /  Disagree

b. agree that a provisional Appointment and Honours Committee process for Ministerially appointed members be carried out while the Education and Training Amendment (System Reform 9(2)(f) ) Bill is in Select Committee, with appointments conditional on the passage of the Bill.(i )

Agree /  Disagree

### Proactive Release:

c. agree that the Ministry of Education release this paper following introduction of the Education and Training (System Reform 9(2)(f) ) Amendment Bill with any information needing to be withheld done so in line with the provisions of the Official Information Act 1982.

Agree /  Disagree

  
Paul Aitken  
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Te Pou Kaupapahere

  
Hon Erica Stanford  
Minister of Education

18/08/2025

10/9/25

Proactively Released

## Annex 1: Timelines for Teaching Council appointment and election processes following passage of ERE

9(2)(f)(iv)



Proactively Released

Proactively Released